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10/701,861	11/05/2003	Phillip Eugene Koloff JR.	9D-HR-25403	7798

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EXAMINER

AYRES, TIMOTHY MICHAEL

ART UNIT PAPER NUMBER

3637

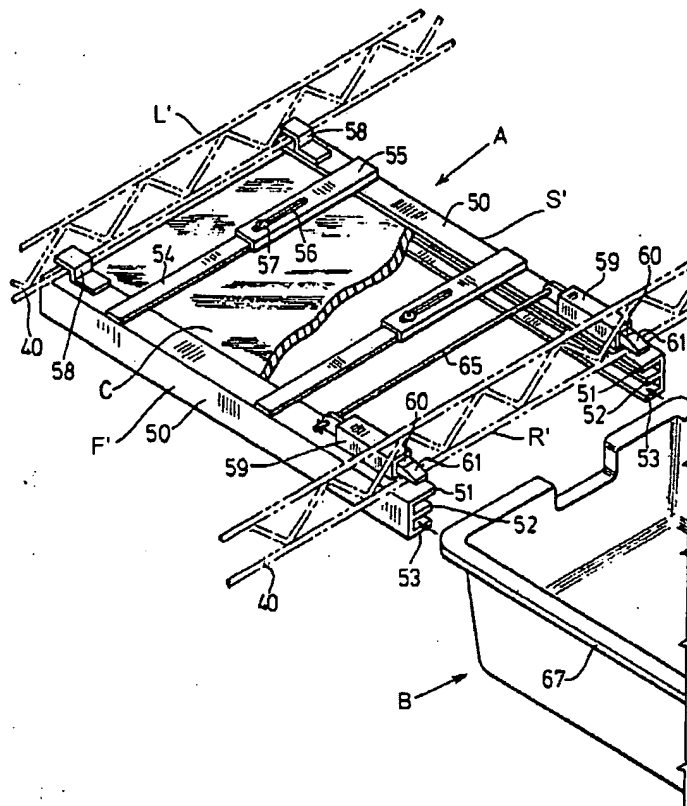
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Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. Claims 11, 16 and 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 4,241,668 to Carroll. Carroll '668 discloses a drawer assembly with a pan support (A) made up of a wire member (40) having a first side (R') and a second side (L'). A first bracket (F') coupled to the first side (R') so that is removable without tools by pulling on a rod (65) to release latches (61). The wire member is not continuous as seen in figure 2, but is formed from continuous wire that is cut and welded to other wire members. A second bracket (S') coupled to the second side (L') so that the second bracket (S') is removable without tools also when the rod (65) is pulled. The second (S') bracket is substantially identical to the first bracket (F'). The first bracket (F') is coupled to the first side (R') by the latch member (61) and the second bracket (S') is coupled to the second side (L') by a hook member (58). The term refrigerator is nomenclature which is given no patentable weight. The first bracket (F') is a mirror image of the second bracket (S') and is therefore in a reverse or inverse orientation from each other. Method is inherently provided for since all structural limitations are met.



Carroll '668 Figure 3

2. Claims 11, 12, 14, 15, and 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 3,352,431 to Smith. Smith teaches a pan support wire member (13, 12) having a first side and a second side. The first side and second side can be considered right and left as seen in figure 1 and 3 and/or front and back as seen in figures 2 and 4. A first bracket (20) is coupled to first side and a second bracket (17) is coupled to the second side. The brackets (17,20) are substantially identical. The coupling systems/manners are different due to the u-shaped wire member (15, 25, 16) involved in the connection of the pan support wire to the bracket. The brackets have u-

shaped portion that the wire hooks (14,16) sit in. Regarding claim 15, the first u-shaped member on bracket (20) is aligned with the right front portion of the pan support member as seen in figure 2 and 4 and the second u-shaped member on second bracket (17) is in a different plane as seen in figure 2 and 4. Method is inherently provided for since all structural limitations are met.

3. Claims 11, 12, and 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 2,155,284 to Steenstrup. Steenstrup teaches a pan support wire member (37, 43) attached to first and second brackets (38). The first and second brackets are identical, but have different coupling systems due to the u-shaped member (39). Method is inherently provided for since all structural limitations are met.

4. Claims 17, 19, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent Publication 2002/0084734 to Shih. Shih teaches a bracket (1) with a sidewall and a first rail (11) extending from the sidewall. A second rail (15) extends from the bottom of the side wall. The first rail (11) has slots (12) and an inwardly turned lip portion as seen in figure 3b. The second rail (15) has an inwardly turned lip portion (13). Slots in the second rail (15) are considered to be the spaces between each lip portion (13). "Sized to receive" is taken to mean that a slot has to be capable of receiving a U-shaped member and Kurtz's slot is capable of receiving a U-shaped member of some size. A slot is also considered to be an aperture and is also capable of receiving a hook of some kind. The pan support wire is not positively recited in the claims and therefore

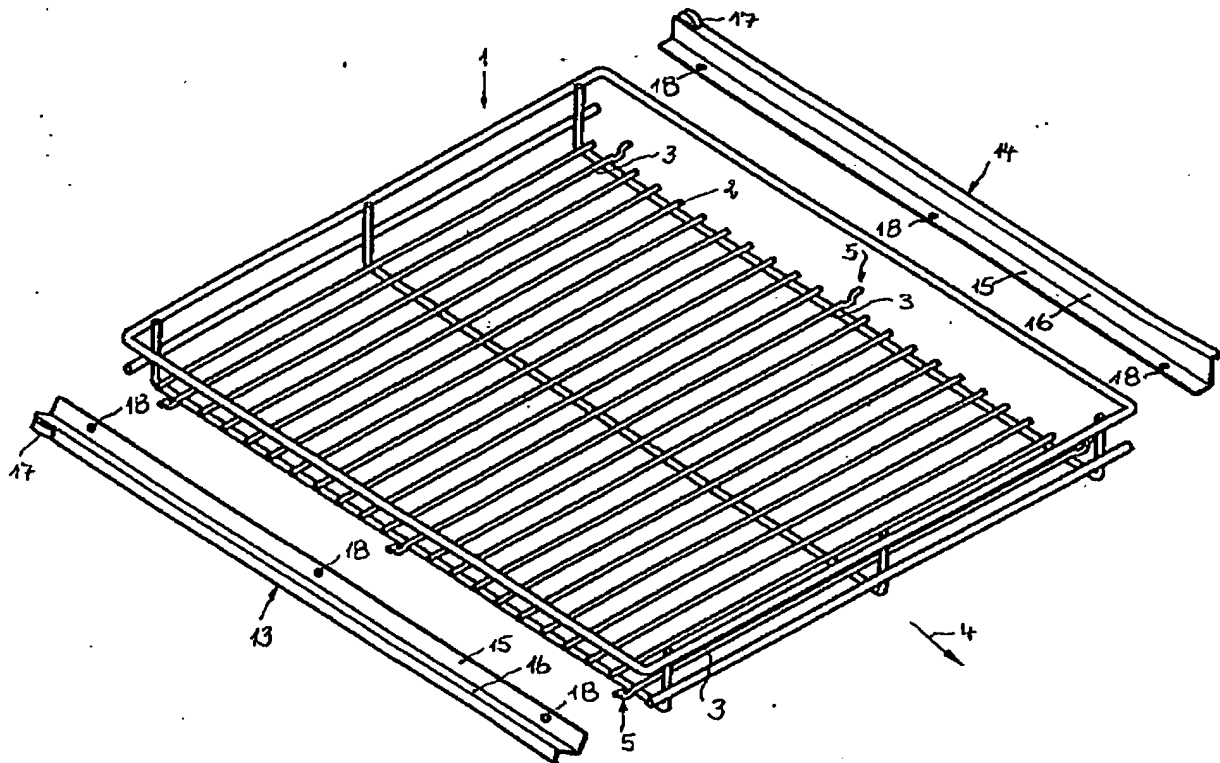
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has no weight other than the slots and apertures being capable of receiving the hooks and u-shaped member.

5. Claims 21 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 6,491,173 to Costa. Costa teaches a pan support wire member. The product-by-process limitation "a continuously formed " wire member would not be expected to impart distinctive structural characteristics to the device/apparatus and a wire member with multiple sections would have equivalent functions. Identical first and second brackets are attached to the pan support as seen in figure 6.

Claim Rejections - 35 USC § 103

6. Claims 17, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over German Patent DE 296 14 997 to Kesseboehmer in view of U.S. Patent 4,967,989 to Bender and US Patent 3,611,661 to Chambers. Kesseboehmer '997 discloses a pan support wire member (1,3) with hooks (5) that project lateral on the sides to be received in apertures (18) on a rail (15) of a bracket (14). The bracket (14) has a sidewall (16), a first rail (13) and a second rail (15).



Kesseboehmer '997 Figure 1

7. Kesseboehmer '997 does not disclose expressly the first rail with slots sized to receive a u-shaped member. Bender '989 discloses a bracket (14) with a sidewall, a first rail, and a second rail. The first rail has a plurality of slots (22) and the second rail has a plurality of apertures (18). At the time of the invention it would have been obvious for a person of ordinary skill in the art to take the bracket of Kesseboehmer and add slots as Bender teaches so that objects can be attached to both rails. "Sized to receive" is taken to mean that slot has to be capable of receiving a U-shaped member and bender's slot is capable of receiving a U-shaped member of some size.

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8. Kesseboehmer '997 in view of Bender does not expressly disclose the rails comprising a lip portion. Chambers teaches a bracket (Fig 3) with a sidewall (24), a first rail (25), a second rail (30), a first lip portion (26), and a second lip portion (31). At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify the bracket of Kesseboehmer '997 in view of Bender by adding a lip portion to the rails as taught by Chambers to strengthen the bracket (Chambers '661, Col. 3, lines 5-9).

Allowable Subject Matter

9. Claims 1-5, and 7 are allowed. The following is a statement of reasons for the indication of allowable subject matter: The prior art does not teach or suggest two brackets that are the same and use two different coupling systems. One coupling system being a u-shaped wire member and the other being one with at least two hooks.

10. Claim 13 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

11. Applicant's arguments filed 8/10/06 have been fully considered but they are not persuasive. Referring to the argument that since Chambers calls element (6) a strut and it has a bracket (7) attached to it and that the strut therefore does not qualify as a bracket. The examiner considered a bracket to be any structure that support weight in some manner, which the strut of Chambers would qualify as. Kesseboehmer, Bender,

and Chambers all attempt to solve the problem of using a metal bracket to support some entity, whether it be a basket/pan, chair, or building, they are brackets to connect to a structure and to support another entity such as the problem the applicant is addressing with the bracket of this application to connect to the wall of a refrigerator and to a pan support. Carol's pan support is not a continuous wire member, but is inherently is constructed from a continuous wire member as required by the claim. The removal of the limitation involving inverse orientation amends the claims such that claims 12, 14, and 15 can now be rejected.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

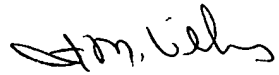
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy M. Ayres whose telephone number is (571) 272-8299. The examiner can normally be reached on MON-THU 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TMA
10/19/06



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